

# **Natural Resources & Rural Affairs Committee**

**Senator Jake Flake, Chairman**



**Megan Gnagy, Research Analyst**

**Jennifer O'Connor, Intern**

# NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE

## LEGISLATION ENACTED

### waste tire disposal (S.B. 1083) – Chapter 31

Extends the repeal date for the fee on new tire sales and the Waste Tire Fund and Waste Tire Program from December 31, 2007, to December 31, 2017.

### toxic fire response (S.B. 1112) – Chapter 153

Establishes an Arizona Chemical Fire Response Coordination Task Force (Task Force) consisting of the fire chief, or the fire chief's designee, from each Arizona municipality with a population of 75,000 persons or more. Requires the Task Force to perform certain duties including establishing a municipal hazardous material tracking process program for commercial and industrial buildings, ensuring the transfer of key information between entities, and creating an inventory procedure that provides quarterly updates and an annual report for buildings that are required to be tracked. The Department of Health Services (DHS) must coordinate public health and risk assessment issues related to a chemical or other toxic fire event on request from an incident commander, the Emergency Response Commission or the Department of Public Safety, if funding is available. As well, in consultation with the Arizona Poison Control System, DHS must inform the public as to potential public health risks from the environmental exposure. The Department of Environmental Quality is required to assist at a significant chemical or other toxic fire event to collect samples and prepare a report with test results of those samples. Repeals the Task Force on June 30, 2010.

### Summerhaven fire; assured water supply (S.B. 1182) – Chapter 51

Beginning April 16, 2007, exempts subdivided lands for sale or lease in an active management area from the requirement that the lands have an assured water supply as long as the Director of the Arizona Department of Water Resources finds that certain conditions apply.

### county powers; open fires (S.B. 1198) – Chapter 52

Authorizes counties to prohibit open fires and campfires on lands that are in the unincorporated areas of the county and that are private property islands within the boundaries of a national forest, United States Bureau of Land Management (BLM) or state land holdings if such a prohibition has been declared by a national forest, BLM or the State Forester.

### ~~state fair fund; technical correction~~ (NOW: Arizona water settlements) (S.B. 1218) – Chapter 286

Corrects an omission in the title of Laws 2007, Chapter 249 (S.B. 1570), relating to the Arizona Water Settlements Act, by repealing and rewriting a section in that law.

### underground storage tanks (S.B. 1310) – Chapter 103

Limits the frequency an application may be submitted to or accepted by the Arizona Department of Environmental Quality for coverage of costs associated with a single underground storage tank (UST) facility to once per calendar month. Also, reduces the amount an owner/operator

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

of a UST may receive from the Assurance Account for corrective actions that the owner/operator elects to perform to 90 percent.

### water storage permits; notice requirements (S.B. 1312) – Chapter 161

Requires the Arizona Department of Water Resources to post a notice on its website of an application for an underground storage facility permit that includes the applicant's name, the proposed location of the facility, the date the application was filed and the application number.

### national animal identification system; nonparticipation (S.B. 1428) – Chapter 167

Clarifies that the National Animal Identification System is voluntary and participation shall not be mandated by the Arizona Department of Agriculture or any instrumentality of the state.

### low sulfur diesel fuel standards (S.B. 1455) – Chapter 145

Modifies diesel fuel standards to correlate with federal regulations regarding low sulfur diesel fuel and ultra low diesel fuel labeling, dispensing and transfer document requirements.

### vehicle emissions inspection; sunset extension (S.B. 1531) – Chapter 171

Continues the Vehicle Emissions Inspection (VEI) Program and annual inspection requirements from January 1, 2009, to January 1, 2017. Authorizes an onboard diagnostic check for motorcycles and constant four wheel drive vehicles. Bases the exemption from emission inspection requirements for new vehicles on the registration year, rather than the model year, and extends how long new vehicles are exempt from testing to five years after initial purchase or lease. Removes a limitation on payment method for inspections.

### air quality program (S.B. 1552) – Chapter 292

Addresses areas of particulate emissions (PM-10), including leaf blowers restrictions, paving and stabilization requirements, off-highway vehicle restrictions, dust coordinator requirements, fuel requirements (to address ozone emissions), no burn restrictions and other miscellaneous provisions.

***Leaf Blower Restrictions*** – Establishes prohibitions on the use of leaf blowers, except in vacuum mode, for employees of cities, towns and counties in Area A, which is the Phoenix metropolitan area including a portion of Pinal County, on a high pollution advisory (HPA) day forecast by the Arizona Department of Environmental Quality (ADEQ). Prohibits their use in Area A on unstabilized surfaces or to blow debris into the street at any time by any person. Requires training, once every three years, for any person who receives payment for services relating to operating a leaf blower in Maricopa County and the portion of Apache Junction located in Area A. Requires ADEQ to produce and distribute printed materials designed to educate and inform users of leaf blower equipment.

***Paving and Stabilization Requirements*** – Requires cities, towns and counties in Area A to develop plans to pave or stabilize targeted unpaved roads, alleys and unpaved shoulders. Requires cities in Area A and in Maricopa County to adopt or amend and enforce ordinances as necessary to require dustproof paving methods for parking, maneuvering, ingress and egress areas at commercial developments with four or fewer units and areas 3000 ft<sup>2</sup> in size at residential developments with four or fewer units. Requires restrictions on vehicle parking and use on unpaved or unstabilized

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

vacant lots in Area A. Notification requirements for stabilizing vacant lots are outlined and, if the owner does not comply within the 30-day notice period, the county may enter the property and stabilize the lot at the owner's expense.

***Off-Highway Vehicle Restrictions*** – Requires cities and towns in Area A to adopt and enforce an ordinance to prohibit the operation of a vehicle, including an off-highway vehicle (OHV), all-terrain vehicle (ATV) or off-road recreational motor vehicle (ORRMV), on an unpaved surface, except public or private roads, streets and easements, that is closed by the landowner, by rule or regulation or by posting if the land is private. Prohibits operating an OHV, an ATV or an ORRMV on an unpaved surface in Area A during any HPA day for particulate matter as forecast by ADEQ with exceptions. Outlines penalties for violations of OHV, ATV and ORRMV restrictions. Requires ADEQ to develop informational material for reducing dust generation and applicable ordinances and restrictions. OHV, ATV and ORRMV sellers and rental companies in Area A, except for golf carts, must provide this information to the renter or buyer.

***Dust Coordinator Requirements*** – Requires a dust control coordinator (coordinator) to complete comprehensive training and be present, beginning no later than June 31, 2008, on: 1) sites of five acres or more of disturbed area that are subject to a PM-10 emissions permit and 2) sites of one acre or more of disturbed area that are required to obtain a Utilities General Permit. A coordinator is responsible for managing dust prevention and dust control on site and is authorized to modify or shut down activities as needed to control dust.

Requires site superintendents or other onsite representatives on a PM-10 permitted site of more than one acre of disturbed surface area and water truck and water pull operators to receive basic training and subsequent training every three years.

Outlines the conditions that must be met in order for the requirement at a site of five acres or more to have an onsite coordinator lapse. Requires subcontractors on a site that is subject to a PM-10 permit to register with the control officer. The control officer may charge a fee for services.

***Fuel Requirements and Emissions*** – Establishes a new Area C, as an ozone reduction measure, consisting of the western portion of Pinal County excluding any portion of the county within Area A or the jurisdiction of any Indian tribe. Conditionally requires clean burning gasoline in Area C during the months of May 31 through September 30, based on the Environmental Protection Agency (EPA) approval of the revision of the State Implementation Plan (SIP).

Requires ADEQ to evaluate the Coordinating Research Council study E-74b and receive comments from specified entities. If funding is available, ADEQ must develop and implement research that would complement and incorporate the E-74b study regarding Reid vapor pressure and oxygen content effects on emissions of 1994 and newer light duty vehicles.

Establishes county voluntary diesel retrofit programs for permitted diesel equipment that allows for extra hours of operation for the owner based on the calculated emissions reduction achieved by the retrofit.

Requires a liquid leak inspection as part of any required vehicle emissions inspection if the vehicle was manufactured after the 1974 model year and is not a diesel vehicle.

***No Burn Restrictions*** – Prohibits open outdoor fires in Area A from May 1 through September 30 each year. Requires counties that contain any portion of Area A to include a no burn

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

restriction in their ordinances for HPA days as forecast by ADEQ for particulate matter. Requires a county with a population exceeding 1,200,000 persons to prohibit the use of wood burning chimineas, outdoor fire pits and similar outdoor fires on days that the county has issued a no burn day restriction for particulate matter or ozone. Increases civil penalties for violations of no burn restrictions.

***Miscellaneous Provisions*** – Requires cities, towns and counties in Area A to contract for street sweepers that meet specific standards for pick-up efficiency and PM-10 emissions, beginning on the effective date for counties and March 31, 2008, for cities and towns. Increases the number of agricultural best management practices (BMPs) that are required from one to two and expands the applicable area for the agricultural BMPs. Allows the state or an agency or political subdivision of the state to agree to a contract amendment to any contract entered into before the enactment of these air quality control measures to provide for supplemental payments to reimburse the contractor for costs incurred as a result of new dust control requirements. Establishes the ten-member State Air Quality Study Committee (Committee) for the purpose of examining and making recommendations for current and future compliance with primary national ambient air quality standards. The Committee is repealed on January 1, 2010.

### water; municipal conservation requirements (S.B. 1557) – Chapter 139

Eliminates the current Non-Per-Capita Conservation Program (NPCCP) that is required in the third (in place from 2000-2010), fourth (to be implemented between 2010-2020) and fifth (to be implemented between 2020-2025) management plans and replaces it with a modified NPCCP. The modified NPCCP is required to be implemented by all large municipal water providers that do not currently have a designation of an assured water supply, but the modified NPCCP is optional for those that have a designation. The modified NPCCP requires a water provider, in addition to public education and metering requirements, to select and implement conservation measures from a list of best management practices measures developed by the Director of the Arizona Department of Water Resources (Director). The number of additional measures required is based on the number of service connections in the provider's service area. A provider must submit a provider profile to the Director outlining the conservation measures that it will implement. Additionally, the Director is required to include an agricultural best management practices program in the fourth and fifth management plans, which is currently optional.

### ~~critical water area pilot districts~~ (NOW: Arizona water settlement act) (S.B. 1570) – Chapter 249

Modifies the conditional enactment of statutes relating to the Arizona Water Settlements Act enacted by Laws 2005, Chapter 143, to allow the Tohono O'odham Water Settlement and the Gila River Indian Community Water Rights Settlement to be enacted separately.

### water adequacy amendments (S.B. 1575) – Chapter 240

Authorizes a county board of supervisors for counties located outside active management areas to adopt, by unanimous vote, an adequate water supply ordinance to require that any new subdivision have an adequate water supply in order to receive plat approval. In qualifying counties that do not adopt an adequacy requirement, a city or town may adopt an adequate water supply requirement for new subdivisions.

The Director of the Arizona Department of Water Resources (Director) is responsible for determining whether the subdivision has an adequate water supply or if any of the following

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

exemptions apply: 1) a developer has already made a substantial capital investment in the subdivision without an adequate water supply designation (this exemption expires after five years, unless a home in the subdivision is sold or the Director extends the exemption); 2) projects are not yet completed or Colorado River water rights are not available for the subdivision, but will be within 20 years; and 3) water has to be hauled to homes in the subdivision by train or vehicle.

Exemptions must be noted on the face of the plat and all promotional material if they apply. Establishes notice and notification requirements, including a requirement for a deed to state that the water supply is inadequate and is hauled by vehicle or train.

state forester (S.B. 1607) – Chapter 175

Increases the cap on the Fire Suppression Revolving Fund (Fund) by requiring unobligated monies in the Fund at the end of any calendar year that exceed \$2,000,000, rather than \$600,000, to be deposited in the state General Fund.

~~water; adequacy program provisions~~ (NOW: law enforcement officer; definition; exception) (S.B. 1609) – Chapter 61

Modifies the definition of a law enforcement officer with respect to a multicounty water conservation district (district) and exempts a district from the Arizona Administrative Procedure Act.

state fair board; sunset continuation (H.B. 2043) – Chapter 2

Retroactive to July 1, 2007, continues the Arizona Exposition and State Fair Board until July 1, 2017.

outdoor recreation commission; sunset continuation (H.B. 2044) – Chapter 38

Retroactive to July 1, 2007, continues the Arizona Outdoor Recreation Coordinating Commission until July 1, 2017.

agricultural commodity councils; restructuring (H.B. 2113) – Chapter 64

Modifies the membership of the agricultural commodity councils by reducing the number of members on the Arizona Citrus Research Council, changing the membership requirements for the Arizona Iceberg Lettuce Research Council and changing the membership of the Citrus, Fruit and Vegetable Advisory Council.

big game permits; grandchildren (H.B. 2116) – Chapter 5

Allows a grandparent to transfer a big game permit to a minor grandchild under certain conditions.

big game permits; transfers (H.B. 2117) – Chapter 66

Allows a person to transfer a big game permit to a qualified organization for use by a minor child who has a permanent physical disability.

## NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)

~~community colleges; bonding; technical correction~~ (NOW: water district; Upper San Pedro) (H.B. 2300) – Chapter 252

SEE APPROPRIATIONS COMMITTEE.

feral honeybees; public nuisance (H.B. 2306) – Chapter 16

Adds hives of feral honeybees, which include any hive not actively maintained by a beekeeper, to the list of public nuisances hazardous to public health if the feral honeybees pose a threat to health or safety.

~~water; maximum daily loads; report~~ (NOW: retiree health insurance; rural subsidy) (H.B. 2311) – Chapter 253

Beginning June 20, 2007, extends, until 2009, the health care premium benefit supplement for retired members of the Arizona State Retirement System, Corrections Officer Retirement Plan, Public Safety Personnel Retirement System and Elected Officials' Retirement Plan who live in nonservice areas with no health maintenance organizations and who are Medicare eligible.

energy code advisory commission; repeal (H.B. 2319) – Chapter 88

Repeals the State Energy Code Advisory Commission and the State Energy Code.

adequate water supply; city designation (H.B. 2321) – Chapter 75

Allows a city that has a contract with the Secretary of the Interior for permanent allocations of Colorado River water to deliver that water directly to customers and authorizes the Director of the Arizona Department of Water Resources to include those Colorado River water allocations when making a determination of adequate water supply.

irrigation districts; acreage voting (H.B. 2440) – Chapter 105

Allows an irrigation district located in a county with a population of at least two million to adopt an acreage system of voting as long as more than half of the district's total acreage is used for other than agricultural purposes.

sanitary district; conversion; reorganization (H.B. 2482) – Chapter 80

Renames the process for a sanitary district (district) to *convert* from a district board comprised of the county board of supervisors to an elected district board. The bill also includes a new process for a district to *reorganize* to become a five-member district board rather than a three-member district board.

~~well impacts; contamination~~ (NOW: contamination; well impacts) (H.B. 2484) – Chapter 209

Requires the Director of the Arizona Department of Water Resources (Director) to deny the drilling of a well if the Director finds that the well will likely cause the migration of contaminated groundwater from a remedial action site to another well. The Director is required to approve or deny the drilling of a well within 45 days of receiving a notice of intent (NOI) to drill and may only make

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

a determination on the approval or denial of an NOI for a well that is located within certain distances of a remediation site.

well water; Colorado; Santa Cruz (NOW: well water; Colorado river water) (H.B. 2485) – Chapter 91

Restructures a conditionally enacted statute governing notice of intent to drill a well that will pump Colorado River water, which was enacted in 2002 and modified in 2006, by separating the requirement to provide proof of Colorado River water rights into a separate section of statute.

agricultural management practices committee; continuation (H.B. 2487) – Chapter 81

Retroactive to July 1, 2007, continues the Agricultural Best Management Practices (BMP) Advisory Committee until July 1, 2012. Additionally, restructures the Agricultural BMP Advisory Committee and its membership by eliminating the Nitrogen Fertilizer BMP Advisory Committee and combining the Concentrated Animal Feeding Operations BMP Advisory Committee and the Grazing BMP Advisory Committee.

drought emergency groundwater transfers (H.B. 2488) – Chapter 149

Retroactive to April 30, 2007, in areas outside of active management areas, under specified circumstances, allows groundwater to be transferred away from a groundwater basin on application to and approval by the Director of the Arizona Department of Water Resources (Director). Requires the Director to approve an application to transport groundwater away from a groundwater basin if certain conditions are met. Repeals the transfer of groundwater authority after April 30, 2008.

schools; energy and water savings (NOW: schools; energy and water efficiency) (H.B. 2496) – Chapter 150

Establishes the School Energy and Water Use Efficiency Program (Program) within the Arizona Department of Education (ADE) to facilitate cooperation between utility companies and schools that choose to participate. Requires an agreement to be negotiated between the utility company and the school district or charter school, which must include specific criteria. Allows a school district or a charter school to enter into a contract after approval from the ADE. The ADE must be given a copy of the contract. Requires payments to the utility for the Program to be considered as part of the maintenance and operations budget and will not be paid with excess utilities monies.

aggregate mining operations recommendation committees (H.B. 2626) – Chapter 83

Broadens the membership eligibility requirements for the Aggregate Mining Operations Recommendation Committee (Committee) by extending residency requirements to private citizens and requiring the board of supervisors to appoint alternate members who may serve at Committee meetings when primary members are unable to attend.

water supply development revolving fund (H.B. 2692) – Chapter 226

Establishes the Water Supply Development Revolving Fund (Fund) to be administered by the Water Infrastructure Finance Authority (WIFA) Board and consisting of monies from sources including the issuance and sale of bonds and legislative appropriations. Water providers located in a



## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

city, town or county that has an adequate water supply requirement for new subdivisions may apply for financial assistance from the Fund to be used for planning or design of water supply development projects.

Creates the 14-member Water Supply Development Fund Committee (Committee) to consult with WIFA on the process for applying for and awarding financial assistance to water providers from the Fund. Loans are awarded from the Fund through WIFA based on approval of the loan application by the Committee. Outlines loan repayment terms and conditions; limits single grants to \$100,000 and requires repayment within three years; and establishes bonding authority.

Conditions the enactment of this legislation on the passage of S.B. 1575 (Laws 2007, Chapter 240) relating to water adequacy requirements.

### racing; pari-mutuel wagering (H.B. 2694) – Chapter 189

Establishes penalties and enforcement procedures by the Arizona Department of Racing (Department) and the Attorney General for wagers that are placed inside or outside of this state at facilities that are not licensed by the Department. Deems any wager placed in this state to have occurred in this state. Requires an annual report that summarizes enforcement activities to be submitted to the Governor and Legislature with a copy to the Secretary of State and the Arizona State Library, Archives and Public Records.

### noncontiguous county island fire districts (H.B. 2780) – Chapter 242

Repeals portions of Laws 2006, Chapter 2, which were adjudicated unconstitutional, that authorized a county island to form a county island fire district and require a surrounding city to provide fire service.

Establishes a new authority for noncontiguous county islands to form a Noncontiguous County Island Fire District (District) and outlines the process for formation, including hearing and petition requirements. If the signatures on the petitions are found to be valid, the county board of supervisors must order the formation of the District and the District is established 30 days after the order. Once formed, the District is administered by an initial board appointed by the county board of supervisors until the election of a five-member board. Outlines the duties of the elected board, including issuing a request for proposals (RFP) for, and entering into contracts or intergovernmental agreements (IGAs) with, providers for fire protection and emergency medical services, and assessing a secondary property tax to cover the costs of services.

Outlines the process the District must use for contracting for fire and emergency services. Requires the elected board to act within 60 days of formation to: 1) enter into an IGA with a municipality; 2) issue an RFP for a nonmunicipal provider; or 3) if there are no bidders and the county attorney certifies that the negotiations were based on commercially reasonable assumptions, then the surrounding municipality must provide fire and emergency medical services. The method for determining the payment for fire and emergency medical services is outlined. A fire district, city or town is not required to provide protection to any portion of the county that is receiving services from a private provider except for by a mutual aid or backup agreement.

Outlines the process for a resident of the District to request to be annexed into the surrounding municipality, requires a private provider of fire or emergency medical services in a county island to provide notice of termination of those services to the resident at least one year before

## **NATURAL RESOURCES & RURAL AFFAIRS COMMITTEE (Cont'd.)**

the termination date and requires legislative review if a municipality is required to provide fire and emergency medical services to a noncontiguous county island fire district.

environment; budget reconciliation (NOW: budget reconciliation; environment) (H.B. 2788) – Chapter 262

SEE APPROPRIATIONS COMMITTEE.

urge protection; Kofa herd (H.C.M. 2008)

Urges the United States Congress to reaffirm the Arizona Game and Fish Department's position as the lead management agency of nonmigratory and nonendangered wildlife. Urges the Arizona Game and Fish Commission to employ all management tools and measures necessary to recover the desert bighorn sheep herd of the Kofa National Wildlife Refuge.

Lower Colorado basin; forbearance authority. (H.J.R. 2001/S.J.R. 1001)

Resolves, with the Governor concurring, that it is in the best interest of the state to enter into forbearance agreements to protect Arizona's interests in Colorado River water in surplus, normal and shortage years. Authorizes the Director of the Arizona Department of Water Resources to enter into forbearance agreements, subject to certain restrictions.

### **LEGISLATION VETOED**

water; overlapping service area providers (S.B. 1119) – VETOED

Prohibits a city or town from limiting a landowner's use of water supplied by an irrigation district with an overlapping service area by enacting or adopting an ordinance, regulation or provision.

The Governor indicates in her veto message that S.B. 1119 would preempt local governments from coordinating their services, hamper planning for growth and eliminate incentives for local governments and irrigation districts to work together to provide water efficiently.

county purchasing; technical correction (NOW: railroads siting authority; eminent domain) (H.B. 2020) – VETOED

Authorizes the Arizona Corporation Commission (ACC) to review railroad proposals that use eminent domain, the threat of eminent domain or auction to acquire property in order to ensure that the railroad has examined alternative locations and has chosen a site or route that minimizes environmental, natural resource, water and economic impacts and impacts on historical, archeological or geographical land marks. A railroad must submit a proposal to the ACC if a proposal is required for a review and the ACC may suggest alternative locations.

The Governor indicates in her veto message of H.B. 2020 that federal law (49 U.S.C. § 10501(b)(2)) establishes primary, if not exclusive, federal jurisdiction over the regulation of railroads.